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# Judge to decide on damages in Cruikshank case

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By KEN KOBAYASHI  
Advertiser Staff Writer

A federal judge will decide how much money, if any, the federal government must pay a University of Hawaii astronomer whose mail was opened by the Central Intelligence Agency between 1968 and 1971.

Dale Cruikshank's attorney asked for a "substantial amount" for the opening of 21 letters.

The government attorney argued that Cruikshank deserves \$100 at the most and \$1 in nominal damages for any violation of his constitutional rights.

Federal Judge Samuel P. King at the end of a day-long trial gave the attorneys more time to file legal briefs.

He said "the only question is how much" the government must pay, but he said he doesn't believe the \$380,000 which Cruikshank's lawsuit requests is appropriate.

Cruikshank is represented by attorney David Turk, who filed the lawsuit in behalf of the American Civil Liberties Union.

Alphonse Alfano, U.S. Justice Department attorney from Washington, D.C., admitted that Cruikshank's mail was opened as part of Operation HTLingual, a program designed to open mail passing through New York between the Soviet Union and the United States between 1953 and 1973.

A CIA agent testified yesterday that of 35 million pieces of mail that went through the New York City Post Office between 1964 and 1973, the postal authorities turned over 15 million pieces to the CIA, which opened about 100,000 of them.

The mail-opening program, according to the government, was designed for "foreign intelligence and foreign counter-intelligence purposes."

The government said the mail was opened, the letters photocopied and then returned to the post office within 24 hours.

Cruikshank said the CIA mailed him copies of 19 letters in 1975 in response to a request he made under the Freedom of Information Act. The CIA gave him copies of two other letters after he filed his lawsuit.

"It's a tremendous shock to receive in the mail from the Central Intelligence Agency a bundle of correspondence" he thought was private, he said.

"My mind wandered immediately to what other things they'd been up to," he said.

Cruikshank said he wondered what interest the federal government could have in his mail, especially since it was over a period of several years, indicating the government had a "continuing interest."

He said he checked his phone for bugs and his ventilating system for any listening devices, but found none.

Cruikshank said he was "concerned and angered" over the revelation, which caused him to lose sleep.

The letters included those sent between him and Soviet scientists as well as others he sent from Moscow to his friends in the United States, he said.

Cruikshank, who said he does not have access to classified material, testified that the letters concerned discussions of "scientific topics with occasional lapses into a friendly letter."

Cruikshank was in Russia one year in 1968 and 1969 on an exchange program sponsored by the National Academy of Science.

Cruikshank also testified that the opening of the mail may have been a factor in three requests for grants he made for spacecraft research. However, he said he can't say for certain if that was the reason he was turned down.

Under Alfano's cross-examination, Cruikshank said he did not suffer loss of income or physical injury because of the mail opening. He also said the mail opening did not stop him from writing any books or articles, missing any trips abroad or making any speeches.

Robert Young, a CIA official from Washington, D.C., testified that Cruikshank's mail was opened because he met certain requirements that included association with the University of Moscow and other "technical institutions."

Richard Kinsey, an FBI official from Washington, testified that copies of the letters sent by the CIA are in FBI files.

Both government officials said Cruikshank has not been investigated because of anything found in the letters.

Turk asked King to award Cruikshank an amount to compensate for the "worry and wonder" about discovering he was a "target of surveillance."

He argued that a \$1 recovery for violation of constitutional rights is "shocking and an insult to the dignity of any citizen of this country."

Alfano said he admits the government was involved in "intrusive conduct," but he said taxpayers shouldn't compensate for "intangible injuries, highly speculative," claimed by Cruikshank.

He said federal courts have ruled that a person can collect only nominal damages for violations of constitutional rights unless they can show actual injury.

King said he doesn't doubt Cruikshank's claims. The judge said the discovery of someone else reading your mail is similar to discovering your house has been burglarized.

However, he said an award of \$380,000 is punitive damages, which are now allowed under federal law.

Cruikshank's suit is one of several filed by the ACLU around the country following the revelations of the covert CIA mail opening project.

Alfano said 12 have been filed.

According to Alfano, three have been dismissed, but a federal district judge in New York awarded \$1,000 each to five persons and \$2,000 to a sixth.

Alfano is appealing that decision to the 2nd Circuit Court of Appeals.